REMARKS:

In view of the foregoing amendments, reconsideration and withdrawal of the outstanding Office Action rejections is respectfully requested. Claims 1, 9, and 10 have been amended. No new matter is added.

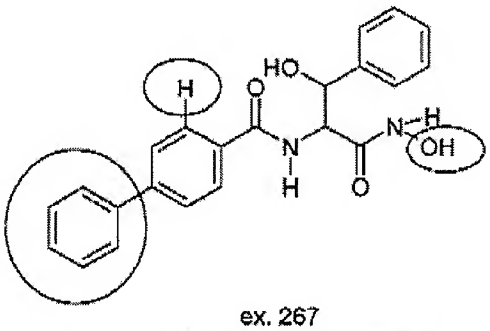
Response to Rejections under 35 U.S.C. §103

Claims 1, 3, and 5 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Application No. 2004/0229955 (Andersen et al.). The Examiner refers to Examples 267 and 1307 of Andersen as rendering claims 1, 3, and 5 *prima facie* obvious. The Examiner acknowledges that Example 267 of Andersen differs from a compound of the instant claims in that the group corresponding to R3 in Andersen is phenyl and the groups corresponding to R1 and R8 in Andersen are hydrogen. However, the Examiner asserts that it would have been prima facie obvious to replace the hydrogen group of R8 in Example 267 with a methyl group and to move the phenyl of the group corresponding to R3 in Example 267 to the R1 position to arrive at the presently claimed compound.

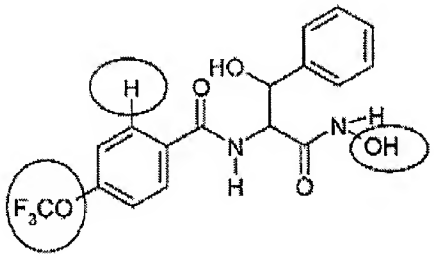
Firstly, Applicants submit that moving a phenyl group from one position to another would require some motivation and would not be prima facie obvious to those of ordinary skill. Phenyl groups are bulky substituents and one of ordinary skill would not be able to predict how moving a phenyl group from one position to another would affect the mechanism of action or properties of a compound. Therefore, Applicants submit that there is no motivation based on Andersen or the common knowledge in the art to move phenyl groups to different positions within compounds.

Without acquiescing to the proprieties of the Office Action rejections, and only in the interest of advancing prosecution, Applicants submit that claim 1 has been further limited.

Applicants submit that because in the compound of claim 1, as amended, R1 cannot be phenyl and, further, because R3 cannot be phenyl, and R8 cannot be hydrogen or hydroxyl, the disclosure of Andersen does not render obvious the presently claimed compound. Accordingly, Applicants submit that the rejection based on Example 267 of Andersen has been obviated.



ex. 267
disclosed in Andersen et al



ex. 1307
disclosed in Andersen et al

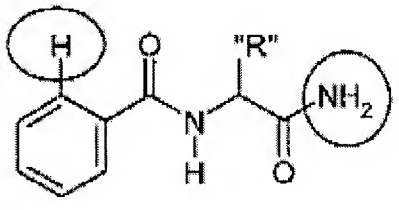
With regard to Example 1307, Applicants submit that because in the compound of claim 1, as amended, R3 cannot be a C_1-C_6-haloalkoxy and, further, because R1 cannot be hydrogen, and R8 cannot be hydrogen or hydroxyl, the disclosure of Andersen does not render obvious the presently claimed compound. Accordingly, Applicants submit that the rejection based on Example 1307 of Andersen has been obviated.

Thus, based on the above, Applicants submit that claims 1, 3, and 5 are unobvious over Andersen and respectfully request that the rejection be withdrawn.

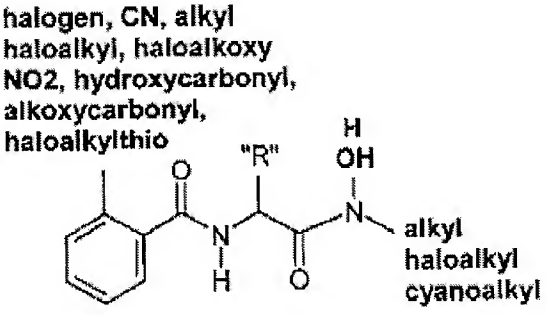
Claims 1-4, and 15 were rejected under 35 U.S.C. §103(a) as being obvious over Zupancic et al. (J. Heterocyclic Chem., 36, 607 (1999)). The Examiner refers to

compounds 5a-e and 5c on page 607 of Zupancic and states that the only differences between the compounds of Zupancic and the instant compounds are that groups corresponding to R1 and R8 are hydrogen atoms in Zupancic. Applicants respectfully disagree.

Applicants submit that the Examiner has based his objection on the principle of bioisosteres. Bioisosteres are groups with similar physical or chemical properties that impart similar biological properties to a chemical compound. Applicants submit that Zupancic discloses compounds in which the benzoyl ring is unsubstituted whereas the compound according to the present invention require a subsituent in the ortho-position of the the benzoyl ring. Furthermore, the compounds according to Zupancic are characterized by the primary carboxamide group ($C(O)NH_2$), whereas the respective group within the presently claimed compound is *inter alia* a secondary carboxamide (C(O)NHalkyl). A replacement of the hydrogen in these positions of the molecule, especially that close to a carbonyl group, e.g. by a methyl group, would lead to a significant difference in the physical and chemical properties, e.g. with regard to the dipole moment, protonation, possibility of enol formation, etc. Therefore, the principle of bioisosteres should not be applicable to the present case.



ex. 5a-e,
disclosed in Zupancic et al



compounds according
to the present invention

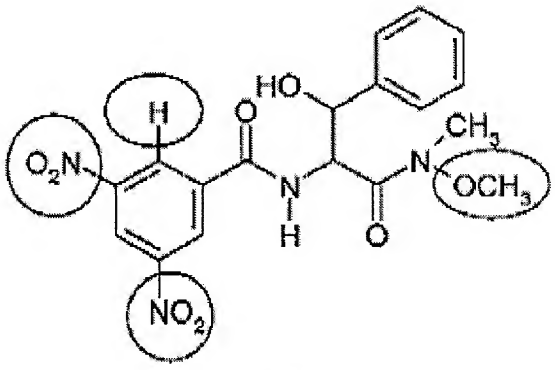
Furthermore, Zupancic does not give any hint or motivation why especially those hydrogen atoms, which correspond to R1 and R8 in the present application, should be replaced. Applicants submit that no evidence has been provided to show that it would have been obvious to one of ordinary skill to alter the compound of Zupancic to arrive at the presently claimed compound. Thus, Applicants believe that it would not have been obvious to one of ordinary skill to make the particular replacements specifically at positions R1 and R8. Thus, based on the above, Applicants submit that claims 1-4 and 15 are unobvious over Zupancic and respectfully request that the rejection be withdrawn.

Further with regard to claim 15, Applicants submit that it would not have been obvious to one of ordinary skill in the art to substitute hydrogen atoms at R1 and R8 with fluorine and methyl, respectively, to arrive at the compound of claim 15. Fluorine has significantly different properties than hydrogen including size, reactivity, and electronegativity. Therefore, it certainly would not be obvious to one of ordinary skill in the art that substituting a hydrogen atom with a fluorine atom would result in a compound with the same activity. Thus, based on the above, Applicants submit that claim 15 is unobvious over Zupancic and respectfully request that the rejection be withdrawn.

Claims 1, 3, and 5 were rejected under 35 U.S.C. §103(a) as being obvious over Sawamura et al. (J. Org. Chem. 1995, 60, 1727-1732)). The Examiner refers to compound 8a on page 1728 of Sawamura as disclosing a compound that only differs from the presently claimed compound by the group corresponding to R1 which is hydrogen in Sawamura. The Examiner asserts that it would have been obvious to move the NO_2 of R2 to the R1 position to arrive at the presently claimed compound.

Applicants submit that there would have to be some motivation to move a NO_2 group from one position to another and, therefore, such a substitution would not

have been prima facie obvious to one of ordinary skill. No such motivation is provided in Sawamura. Nevertheless, without acquiescing to the proprieties of the Office Action rejections, and only in the interest of advancing prosecution, Applicants submit that claim 1 has been further limited.



ex. 8a
disclosed in Sawamura et al

Applicants submit that because in the compound of claim 1, as amended, R2 and R4 cannot by nitro, and R7 cannot be OCH_3 (alkoxy), the presently claimed compound is not rendered obvious by the disclosure of Sawamura. Accordingly, Applicants submit that the rejection based on Example 8a of Sawamura has been obviated. Thus, based on the above, Applicants submit that claims 1, 3, and 5 are unobvious over Sawamura and respectfully request that the rejection be withdrawn.

Response to Claim Objections

Claims 9 and 10, directed to a herbicidal composition and a process for making said herbicidal composition, were objected to for depending on a previously rejected base claim. Applicants submit that claims 9 and 10 have been rewritten as independent claims. Thus, Applicants respectfully request that the objection be withdrawn and these claims be passed to issue.

Conclusions

In view of the above amendments and remarks hereto, Applicants believe that all of the Examiner's rejections set forth in the March 5, 2009 Office Action have been fully overcome and that the present claims fully satisfy the patent statutes. Applicants, therefore, believe that the application is in condition for allowance.

The Director is authorized to charge any fees or overpayment to Deposit Account No. 02-2135.

The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

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